National Labor Relations Board



Weekly Summary of NLRB Cases

Division of Information	Washington, D.C. 20570	Tel. (202) 273-1991	
July 30, 2004		W-2958	

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Operations-Management Memorandum (OM 04-73):

Case Handling Instructions for All Cases Currently Being Coordinated by the Division of Operations-Management or a Regional Office

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American Armored Car, Ltd. (2-CA-33316; 342 NLRB No. 45) New York, NY July 19, 2004. The Board, finding that the Respondent failed to meet its burden of proof with respect to any of its contentions regarding the amount owed to Fernando Miranda, affirmed the administrative law judge's recommendation and ordered the Respondent to pay Miranda the sum of \$68,061.02, plus interest and reimburse him the sum of \$10,127.25 for medical expenses incurred during the backpay period. It held that the total amount the Respondent is required to pay is \$78,188.27. [HTML] [PDF]

(Chairman Battista and Members Liebman and Walsh participated.)

Supplemental hearing at New York on Jan 27, 2004. Adm. Law Judge Raymond P. Green issued his supplemental decision April 13, 2004.

Anheuser-Busch, Inc. (14-CA-25299; 342 NLRB No. 49) St. Louis, MO July 22, 2004. The Board affirmed the administrative law judge's finding that the Respondent violated Section 8(a)(5) and (1) of the Act by failing to timely respond to Teamsters Local 6's October 5, 1998 request for relevant information and did not violate the Act by failing to respond to the July 2, 1998 oral information request. Chairman Battista and Member Walsh agreed with the judge that the Respondent violated Section 8(a)(5) and (1) by failing to notify and bargain with the Union prior to the installation and use of surveillance cameras in the workplace. Member Schaumber would find that the Respondent's unilateral installation and use of surveillance cameras did not violate the Act. [HTML] [PDF]

Due to the Respondent's installation of hidden surveillance cameras in work and break areas, 16 employees were disciplined for misconduct that the Respondent observed through use of the cameras. A Board majority of Chairman Battista and Member Schaumber agreed with the judge's decision not to revoke the discipline imposed on 16 employees whose misconduct was recorded by the surveillance cameras. They agreed with the judge's conclusion that the employees' misconduct was in violation of plant rules, and such conduct was the basis for the suspensions and termination.

Member Walsh disagreed with his colleagues' failure to rescind the discipline imposed on the 16 employees for conduct discovered solely through use of the unlawfully installed cameras. He wrote that absent the unlawful installation and use of the cameras, the Respondent had no basis to even question those 16 employees, let alone to discipline them. Member Walsh stated: "In order to remedy its unlawful conduct, the Respondent must be ordered to rescind the employees' discipline, expunge the employees' files of any reference to their discipline, make the employees whole, and offer reinstatement to those employees who were discharged."

(Chairman Battista and Members Schaumber and Walsh participated.)

Charge filed by Brewers and Maltsters Local 6, Teamsters; complaint alleged violation of Section 8(a)(1) and (5). Hearing at St. Louis, May 25 and 26, 1999. Adm. Law Judge Bruce D. Rosenstein issued his decision Oct. 1, 1999.

Black's Railroad Transit Service, Inc. (33-CA-13903; 342 NLRB No. 48) Galesburg, IL July 21, 2004. The Board adopted the administrative law judge's finding and held that the Respondent violated Section 8(a)(4), (3), and (1) of the Act by terminating Candice L. Bowles on or about January 23, 2002 because she joined Teamsters Local 627, and participated in Board investigations and proceedings. Member Schaumber found it unnecessary to pass on the judge's finding and conclusion pertaining to the Section 8(a)(4) allegation but agreed that Bowles was unlawfully discharged in violation of Section 8(a)(3) and (1). [HTML] [PDF]

(Members Liebman, Schaumber, and Walsh participated.)

Charge filed by Candice L. Bowles, an Individual; complaint alleged violation of Section 8(a)(1), (3), and (4). Hearing at Peoria on Dec. 3, 2003. Adm. Law Judge Michael A. Rosas issued his decision March 30, 2004.

Brandeis Machinery and Supply Co., a Wholly Owned Subsidiary of Branco, L.L.C. (25-CA-28201-1; 342 NLRB No. 46) South Bend, IN July 21, 2004. The Board adopted the administrative law judge's finding that the Respondent violated Section 8(a)(1) and (3) of the Act in various respects. Among others, the judge found that the Respondent violated Section 8(a)(1) by prohibiting shop mechanic, Bob Cook, from wearing a union hat and service mechanic Steve Benefield from wearing a union button that covered a company logo on his hat. Members Liebman and Walsh affirmed the judge's finding with regard to Cook which essentially constitutes a finding of an unlawful prohibition against the wearing of union insignia, but found it unnecessary to pass on his Section 8(a)(1) finding with regard to Steven Benefield because it would be cumulative and would not affect the remedy. Chairman Battista would find neither violation. [HTML] [PDF]

Absent exceptions, the Board affirmed the judge's dismissal of complaint allegations that the Respondent violated Section 8(a)(1) by removing union literature from an employee bulletin board, searching Bob Cook's toolbox, threatening Cook with discharge because he spoke to other employees on the picket line; and violated Section 8(a)(3) and (1) by issuing Benefield a written reprimand for poor performance and extending his original 90-day probationary period, refusing to assign Cook and Benefield overtime, and assigning Cook and Benefield more onerous work. It also agreed with the judge that the Respondent did not violate the Act when it discharged Benefield.

(Chairman Battista and Members Liebman and Walsh participated.)

Charge filed by Operating Engineers Local 150; complaint alleged violation of Section 8(a)(1) and (3). Hearing at South Bend, March 10-12, 2003. Adm. Law Judge C. Richard Miserendino issued his decision Sept. 25, 2003.

Hollingsworth Management Service (7-RC-22535; 342 NLRB No. 50) Dearborn, MI July 21, 2004. The Board, in agreement with the hearing officer, overruled the Employer's Objections 1, 4, and 5. It found that the hearing officer erred in overruling the Employer's Objection 3, which alleged that electioneering at or near the polling area interfered with the election. Accordingly, the Board sustained Objection 3, set aside the election of October 10, 2003, and directed a second election. The tally of ballots showed 100 for and 71 against the Auto Workers, with 8 challenged ballots, an insufficient number to affect the results. [HTML] [PDF]

Member Schaumber agreed that Objection 3 should be sustained and a new election directed. He wrote that he need not and does not pass on whether the hearing officer correctly overruled Objections 1, 4, and 5.

(Chairman Battista and Members Schaumber and Walsh participated.)

JPH Management, Inc., d/b/a Mid-Wilshire Health Care Center (31-CA-25336; 342 NLRB No. 43) Los Angeles, CA July 19, 2004. Affirming the administrative law judge's findings, the Board held that the Respondent violated Section 8(a)(1) and (3) of the Act by unlawfully coercing and influencing employees to sign a decertification petition, threatening to report employees to the INS if they refuse to sign the decertification petition, creating the impression that wage increases or other benefits were dependent upon the signing of the decertification petition, withholding wage increases from employees because of their union activity, issuing written warnings to employees because of their union activity, and discharging employees because of their union activity. [HTML] [PDF]

(Members Schaumber, Walsh, and Meisburg participated.)

Charge filed by Health Care Workers (SEIU) Local 399; complaint alleged violation of Section 8(a)(1), (3), and (5). Hearing at Los Angeles, May 13-15 and July 24-25, 2002. Adm. Law Judge Gerald A. Wacknov issued his decision Sept. 26, 2002.

Postal Workers Local 735 (United States Postal Service) (17-CB-5444, 5517; 342 NLRB No. 47) Wichita, KS July 21, 2004. The Board, in this supplemental decision and order, adopted the administrative law judge's recommendation and found that the Respondent violated Section 8(b)(1)(A) of the Act by excluding Teri Adelson from sharing in a backpay settlement of a lost-work grievance because she was not a union member and by a subsequent newsletter column written by the Respondent's president that discussed the settlement agreement and Adelson. [HTML] [PDF]

The parties had settled Adelson's initial charge through a non-Board settlement. Subsequently, the General Counsel revoked his dismissal of the complaint and issued a consolidated complaint on the basis of the newsletter column, alleging that Adelson's exclusion from the grievance settlement and the subsequent newsletter column each violated Section 8(b)(1)(A). The judge found, in his initial decision, that the newsletter column neither was unlawful nor justified revocation of the dismissal of the initial complaint. However, the Board, in its decision reported at 340 NLRB No. 166 (2003), found that the revocation was proper and remanded the case to the judge for a determination on the merits of the complaint allegations.

In his supplemental decision, the judge found that both allegations had merit--the newsletter implying that nonmembers would not be represented by the Union or treated fairly and Adelson's exclusion from the settlement. The Respondent did not except to these findings. In two limited exceptions to the judge's remedial provisions, the General Counsel contended that: (1) the judge's remedial notice was inadvertently addressed only to "Members" rather than to "Employees and Members" and (2) the judge failed to require the Respondent to "mail" copies of the notice to all bargaining unit members rather than to "send" them as the recommended Order states. The Board found merit in both exceptions and modified the judge's recommended order and notice accordingly.

(Chairman Battista and Members Liebman and Walsh participated.)

Adm. Law Judge James L. Rose issued his supplemental decision March 23, 2004.

Superior Travel Service, Inc. (7-CA-46641; 342 NLRB No. 51) Flint, MI July 23, 2004. Affirming the administrative law judge, the Board found that the Respondent violated Section 8(a)(1) of the Act by discriminatorily discharging Susan M. White because she engaged in protected concerted activity by preparing, circulating, signing and, with a co-worker, presenting to the Respondent a petition complaining about employee handbook provisions; and by threatening that employees would be discharged for engaging in protected concerted activities. [HTML] [PDF]

(Chairman Battista and Members Liebman and Walsh participated.)

Charge filed by Susan M. White, an Individual; complaint alleged violation of Section 8(a)(1). Hearing at Flint on Feb. 19, 2004. Adm. Law Judge Paul Bogas issued his decision May 21, 2004.

LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

Tower Industries, Inc. d/b/a Allied Mechanical (Steelworkers) Ontario, CA July 15, 2004. 31-CA-26605, et al.; JD(SF)-55-04, Judge Mary Miller Cracraft.

United States Postal Service (Postal Workers San Francisco Local) San Francisco, CA July 19, 2004. 20-CA-31473; JD(SF)-56-04, Judge Burton Litvack.

Yellow Transportation, Inc. (an Individual) Kansas City, MO July 19, 2004. 17-CA-22549; JD(SF)-57-04, Judge Gregory Z. Meyerson.

Wise Alloys, LLC (Electrical Workers [IBEW] Local 558) Sheffield, AL July 23, 2004. 10-CA-34319; JD(ATL)-23-04, Judge Pargen Robertson.

Midwestern Personnel Services, Inc. (Teamsters Local 215) Evansville, IN July 22, 2004. 25-CA-25503-2, et al.; JD-67-04, Judge Ira Sandron.

LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

(In the following cases, the Board considered exceptions to Reports of Regional Directors or Hearing Officers)

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

P & C Painting, Inc., Winter Park, FL, 12-RC-8942, July 21, 2004

(In the following cases, the Board adopted Reports of Regional Directors or Hearing Officers in the absence of exceptions)

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

BCI Coca-Cola Bottling, Union City, CA, 32-RC-5152, July 22, 2004

(In the following cases, the Board denied requests for review of Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of Regional Directors)

Marcor Remediation, Inc., Libby, MT, 19-RC-14519, July 21, 2004 Pay and Save, Inc., Santa Fe, NM, 28-RC-6282, July 21, 2004 Quest Diagnostics Inc., Teterboro, NJ, 22-RC-12482, July 21, 2004 TNT Logistics North America, Inc., 7-RC-22671, July 21, 2004 Avante at Wilson, Inc., Wilson, NC, 11-RC-6495, July 21, 2004

(In the following cases, the Board granted requests for review of Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of Regional Directors)

Argix Direct, Inc., Ridgefield, NJ, 22-RC-12480, July 21, 2004 Diebold, Inc., Plainsboro, NJ, 22-RC-12487, July 21, 2004
